IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.541 OF 2007
IN
WRIT PETITION NO.1591 OF 2007

Kansai Nerolac Paints Ltd. ..Petitioner.

V/s.

The Workmen employed under it
through Paints Employees' Union ..Respondent.

Ms.Meena Doshi for applicant in support of the Notice of Motion

Mr.J.P.Cama a/w R.N.Shah & Sanjay Udeshi i/b. S.Udeshi & Co. for petitioner.

CORAM: A.M.KHANWILKAR,J

DATE : DECEMBER 11, 2007.

P.C. :

1. After having considered the rival submissions for some time, Counsel for the Petitioner-employer on instructions states that the Petitioner would reinstate the three employees at Mumbai in their original post. That however, will be without prejudice to the rights and contentions in the pending Writ Petition. Besides, if the administrative exigency so requires, the Petitioner may consider the possibility of transfer of the said employees, after reinstatement, if there is power to do so.

2. The Counsel for the Respondent workmen submits that the workmen have no difficulty in accepting the first part of the offer made on behalf of the Petitioner-management that they would be reinstated at Mumbai in their original post without prejudice to the rights and contentions of the parties. Counsel for the Respondent submits that the petitioner has no power to transfer the employees in question, which position is reinforced from the appointment letters pertaining to the said three employees. Counsel for the Respondent then submits that in the event, the management proceeds to transfer any of those employees, the management shall not insist for reporting of the concerned employee to the transferred places, in the event any of the three employees decide to challenge the transfer order before the Court of competent jurisdiction. Counsel for the Respondent further submits that besides, the Respondent be granted liberty to apply to this Court for modification of the Order dated 18th September, 2007.

3. Having considered the above submissions, I am accepting the assurance given by the management that the management will reinstate the three employees at Mumbai in their original post. That however, will be

without prejudice to the rights and contentions of the respective parties. I am not expressing any opinion with regard to the correctness of the stand or otherwise on several other issues addressed by both the sides referred to above. Parties will be free to take recourse to such remedy, as may be permissible by law, which will be decided on its own merits, uninfluenced by the pendency of the Writ Petition or the present arrangement arrived at between the parties.

4. Needless to observe that in the event, the Respondent-employees apply for modification of the order dated 18th September, 2007, that application will be considered on its own merit.

5. The Respondent-employees to report on 1st January, 2008 at the Head Office, Mumbai before Mr.Lokur, Administrative Manager at 9.30 a.m..

6. Motion disposed off on the above terms.

(A.M.KHANWILKAR,J)